D.B.CIVIL WRIT PETITION NO. 2706/2007
Union of India . & ors. v. Om Prakash Jat & anr.

Date of order : 21.05.2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE GOVIND MATHUR

Shri V.K.Mathur, Assistant Solicitor General for Union of India

This writ petition is directed against the order of the Central Administrative Tribunal, Jodhpur Bench dated 26.2.2007 in OA no. 252/2006 allowing the application of the respondent. The respondent approached the Tribunal for a direction to re-consider his case for appointment on compassionate ground. Earlier also the Tribunal had made similar direction in OA no. 11/2006. The case of the respondent was reconsidered in the light of the direction of the Tribunal but rejected.

The grounds of rejection are set out in the letter of the Assistant Postmaster General (S&V) dated 19.9.2006. The authority took the view that as the family of the deceased got terminal benefits of Rs. 48,000/- and possess 10 Bigha and 15 Biswa agricultural land from which it is deriving income of Rs. 13,000/- per annum, it cannot be said to be indigent to justify compassionate appointment. The authority observed that the deceased had left behind two sons; the elder one, namely, Mahavir Prasad who is VIII class pass, did not apply for compassionate appointment which means that “he must

have been doing some thing and earning", and he is therefore supposed to help the family. The authority also observed that there is no liability of marriage of daughter.

We are of the view that the grounds aforesaid, are totally irrelevant. Payment of terminal benefits of Rs. 48,000/- was a one time payment andthe amount is not such which can fetch sufficient regular income in case it is invested. The income of Rs. 13,000/- per annum i.e. about Rs. 1000/- per month apparently cannot meet the needs of the family and in our opinion, a family having income of Rs. 1000/- per month can not be said to be non-indigent. The observation that the elder son, i.e. Mahavir Prasad "must be doing something and earning" because he did not apply for appointment is nothing but surmise and conjecture. There was no evidence with the authority that Mahavir Prasad was earning. It is clear that the respondent i.e. the younger second son of the deceased employee applied for appointment because he is graduate and the family thought that he would be better candidate for appointment on compassionate ground. Further, the fact that the deceased did not have any daughter was wholly immaterial.

This Court no doubt can not sit in appeal over the decision of the administrative authority but where reasons for taking the decision are found to be irrelevant and not germane the Court would be failing

in duty if it does not interfere. The Central Administrative Tribunal exercises the same power as this Court under Article 226 of the Constitution, and the impugned direction does not appear to be inappropriate to warrant interference by this Court.

We find no error in the order of the Tribunal. The petition is dismissed.

(GOVIND MATHUR)J. (S.N.JHA), C.J.

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